



Supporters of Representative Owens' felony expungement bill, House Bill 40, celebrate the signing of the bill by Governor Matt Bevin on April 12, 2016 in the Capitol Rotunda. Picture provided by the KY Chamber of Commerce.

Years in the making, felony expungement law passes in Kentucky

Molly Rose Green

One in three Americans has a criminal record. As the Wall Street Journal recently stated, "America has a rap sheet." Even for low-level offenders, a criminal record can act like permanent mark, creating lifelong obstacles to employment, education, and housing, among other consequences.

On April 12, 2016, Governor Matt Bevin signed House Bill 40, a felony expungement law years in the making. Before House Bill 40, expungement was unavailable to citizens convicted of even the lowest level felonies. The new law makes substantial changes to expungement in Kentucky by creating a felony expungement procedure and greatly easing misdemeanor expungement, among others.

- House Bill 40 creates a list of 61 Class D felonies that are eligible for expungement. Some of the most common eligible felonies include possession of a controlled substance, possession of a forged instrument, theft by unlawful taking, criminal mischief, tampering with physical evidence, and burglary in the third degree. The list covers an estimated 60-70% of Class D felony charges. Drug trafficking and wanton endangerment, among others, are not covered by the bill.
- House Bill 40 has a five-year waiting period after the completion of sentence. To be eligible, a person must also have a "clean slate" with no misdemeanor or felony convictions for the five years prior to filing for expungement.
- Under the new law, a person seeking to expunge a felony will first apply to have their conviction vacated, via a new AOC application form. If granted, the conviction(s) will be expunged. The cost for felony expungement is \$500, and a person may take advantage of felony expungement only once in a lifetime.

- House Bill 40 also significantly changes misdemeanor expungement. It removes the look-back period that required a person to have a clear record in the five years before the conviction they were seeking to expunge. Further, like felony expungement, the new law only requires that a person have a clear record for the five years before filing for expungement – instead of requiring him or her to have a clear record since the time of the original conviction. It also permits the expungement of multiple sets of misdemeanors.
- Further, the law permits a person who went to a grand jury and was not indicted to expunge those charges after 12 months.
- The law will go into effect July 15, 2016.

The passage of this law was the result of years of hard work and perseverance by many, including its primary advocate Representative Darryl Owens of Louisville who tirelessly championed the bill in the House for years. The dedication of Representative David Floyd, Senate President Robert Stivers, and Senator Whitney Westerfield, among many others, was also vital. Several key factors helped to change the landscape this year. The Kentucky Chamber of Commerce supported felony expungement, helping promote the idea that expungement is an economic issue, as criminal records keep many out of work. Governor Bevin's support of felony expungement was also critical. Finally, a new broad-based coalition formed, Kentucky Smart on Crime, bringing together religious organizations, economic think-tanks, business interests, and social justice groups in support of this important legislation.

With House Bill 40, Kentucky takes an important step in joining the many states permitting felony expungement. Tens of thousands of Kentuckians will soon be eligible to clear their records, and move on from the past.

A list of free information sessions on the expungement process and further resources on expungement in Kentucky are found at: <http://www.cleanslatekentucky.com/>

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